

11-139

The Secretary of State presents her compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to restate policies and procedures regarding the eligibility and application of real property owned by foreign diplomatic and consular missions in the United States and its territories for exemption from real estate taxes. This note replaces the sections of the Department's circular diplomatic note No. 09-112, dated August 27, 2009, with regard to property taxes and supersedes the Department's circular diplomatic note No. 09-138, dated July 28, 2009.

In the United States and its territories, there are generally three types of taxes associated with the purchase, ownership, or sale of real property. Such taxes are:

1. *Property Recordation Tax* – a one-time tax levied on the recording of a mortgage or deed in a tax authority's official registry;
2. *Property Transfer Tax* – a one-time tax levied on the passing of title of property. This type of tax is only imposed by tax authorities when there is a change in ownership of a property; and

3. *Property Tax* – an annual or semi-annual tax imposed by one or more governmental jurisdictions that is normally based on the assessed value of the property.

There are a variety of factors that have an impact on whether a specific property owned by a foreign government and authorized by the Department's Office of Foreign Missions (OFM) for diplomatic or consular use, is eligible for exemption from real estate taxes. These factors include, but are not limited to, the exact use of a property, the existence of a bilateral agreement providing tax exemption privileges beyond those provided under the Vienna Convention on Consular Relations (VCCR), and reciprocity.

The general authorities associated with the Department's authorization of exemptions from real estate taxes are outlined below.

Diplomatic Properties

In accordance with Articles 23 (1) and 1 (i) of the Vienna Convention on Diplomatic Relations (VCDR) and subject to reciprocity, diplomatic missions are exempt from real estate taxes imposed on properties owned by a foreign government and used as the premises of a diplomatic mission, including chanceries, chancery annexes, and the residence of the Chief of Mission.

In accordance with customary international law and state practice under the VCDR, properties owned by foreign governments and used as residences of the

accredited members of a bilateral diplomatic mission, other than the Chief of Mission, are also exempt from real estate taxes, subject to reciprocity.

Consular Properties

In accordance with Articles 32 (1) and 1 (j) of the VCCR and subject to reciprocity, consular posts are exempt from real estate taxes on foreign government-owned property used as a consular premises, i.e., the primary office of a consulate and any approved annexes, as well as the residence of the career head of the consular post.

In addition, in accordance with the Designation and Determination of the Deputy Secretary of State, dated June 23, 2009, the residence of a member of the staff of a consular post (individuals whose accredited by the Department has been accepted as consular officers or consular employees) owned by a foreign government is exempt from real estate taxes, subject to reciprocity.

Finally, in accordance with Article 60 of the VCCR, when owned by the sending State, the premises of a consular post headed by an honorary consular officer, is eligible for an exemption from real estate taxes.

Residential Property Owned by Chiefs of Missions or Heads of Posts

In accordance with Articles 23 and Article 1 (i) of the VCCR and Article 32 of the VCCR, residential properties owned by a Chief of Mission or the Head of a

consular post and used as the official residence of such individuals also enjoy exemption from real property taxes.

In accordance with the VCDR and the VCCR provisions cited above, foreign government-owned properties enjoying exemption from real property taxes are not exempt from the payment of charges for services, such as water and sewerage services that are provided to a property. In addition, only those taxes that a foreign government would otherwise be legally obligated to pay are entitled to exemption. As the Vienna Conventions clearly provide, foreign governments leasing properties from an owner whose property is subject to real property tax are not entitled to a tax exemption on such property. VCDR, Art. 23(2); VCCR, Art. 32 (2).

In such cases, OFM will authorize exemption from property tax for a period of twelve months. After which, missions will be required to request the renewal of this privilege for an additional twelve months. As long as the property's owner continues to enjoy this privilege, such requests will be reauthorized on an annual basis.

Requesting/Obtaining Real Estate Tax Exemptions

The Chiefs of Mission are advised that tax authorities in the United States and its territories will not grant to foreign missions, on the basis of diplomatic or

consular status, exemptions from real estate taxes, without written authorization from OFM.

Foreign missions are requested to follow specific rules and procedures, which vary based on the type of tax and the location of the property at issue, to request and obtain real estate tax exemptions.

Specific guidelines for requesting and obtaining an exemption from real estate taxes, by location, are available at:

<http://www.state.gov/ofm/property/taxexemption/index.htm>.

The OFM's Office of Diplomatic Property, Tax, Services and Benefits, may be contacted by telephone at 202-895-3500, option 5, or by electronic mail at OFMProperty@state.gov.

Department of State,

Washington, July 5, 2011.

